

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

B.E. and S.E.,)	
)	
Plaintiffs,)	
)	
v.)	No. 2:21-cv-00415-JRS-MG
)	
VIGO COUNTY SCHOOL CORPORATION,)	
<i>et al.</i> ,)	
)	
Defendants.)	

**Plaintiffs' Response to Defendants' Motion for Oral Argument on Plaintiffs' Motion
for Preliminary Injunction and Request for Opportunity to Supplement Record**

Plaintiffs, by their counsel, say that:

1. On February 1, 2022, plaintiffs filed their reply memorandum in support of their motion for preliminary injunction (ECF No. 44) and the matter is now fully briefed.
2. Defendants have asked for oral argument on the motion, for 30 minutes for each side.
3. The basis for this request, according to defendants, is to allow the "Court to fully appreciate the parties' respective legal positions" and to allow an exploration of "this novel and developing area of the law." (ECF No. 46 ¶ 8).
4. As plaintiffs have stressed in their briefing, there is nothing novel about the issue presented in this case given that defendants' arguments are foreclosed by binding

precedent from the Seventh Circuit and plaintiffs believe that the parties' legal positions have been clearly expressed in the briefing of this matter.

5. Therefore, plaintiffs see no need for oral argument and have so notified the Court. (ECF No. 25).

6. However, if the Court believes oral argument would be helpful in this matter, plaintiffs agree that 30 minutes for each side would be appropriate.

7. Defendants further ask to supplement the preliminary injunction record based on a planned deposition of Dr. James Fortenberry, which will take place on March 1, 2022.

8. Dr. Fortenberry submitted a lengthy declaration on November 24, 2021 as part of the evidentiary submissions supporting plaintiffs' preliminary injunction. (ECF No. 22-2).

9. Defendants did not seek to depose Dr. Fortenberry prior to filing their response in opposition to plaintiffs' motion for preliminary injunction on January 11, 2022. (ECF No. 29).

10. Defendants now seek to supplement the record in response to Dr. Fortenberry's much briefer Supplemental Declaration submitted on February 1, 2022. (ECF No. 43-6).

11. Plaintiffs' have no objection to defendants supplementing the record if the supplementation is solely in response to the contents of the Supplemental Declaration. However, plaintiffs object to defendants using the opportunity to supplement to raise matters directed to Dr. Fortenberry's original declaration, which could have been

addressed in defendants' response in opposition to plaintiffs' preliminary injunction, (ECF No. 29).

WHEREFORE, plaintiffs file their response to defendants' submission and request all appropriate relief.

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